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| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO.             | CONFIRMATION NO.            |
| 10/649,303  | 08/27/2003  | Siew-Hong Yang-Huffman | 200310177-1                     | 5395                        |
| 22879 7590 01/02/2008<br>HEWLETT PACKARD COMPANY<br>P O BOX 272400, 3404 E. HARMONY ROAD<br>INTELLECTUAL PROPERTY ADMINISTRATION<br>FORT COLLINS, CO 80527-2400 |             |                        | EXAMINER<br>SHINGLES, KRISTIE D |                             |
|   |             |                        | ART UNIT<br>2141                | PAPER NUMBER                |
|   |             |                        | NOTIFICATION DATE<br>01/02/2008 | DELIVERY MODE<br>ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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**Office Action Summary**

Application No.

10/649,303

Applicant(s)

YANG-HUFFMAN ET AL.

Examiner

Kristie D. Shingles

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### Response to Amendment

Claims 10 and 20 have been amended.

Claims 24-30 have been newly added.

Claims 1-30 are pending.

### Response to Arguments

I. Applicant's arguments filed 10/1/2007 have been fully considered but they are not persuasive.

**Regarding Claim 1, Applicant argues that the cited prior art of record, *See et al* (US 2004/0008727), fails to teach “at least one collector operable to...poll a subset of network nodes requiring monitoring according to the collection configuration information”.**

Examiner respectfully disagrees. *See et al* clearly discloses one or more network management systems, NMS, that monitors and polls the managed network devices under its management (*pages 2-3 paragraphs 0025-0027*); meaning that in a network, each NMS manages only a subset of network devices and therefore only monitors and polls the network devices it is responsible for, which is a subset of all the devices in the network. Furthermore, each NMS implements monitoring and polling by collecting local resource property data from each managed network device, wherein the local resource property may comprise internal resource properties and connectivity properties such as: hardware configurations, software installations, device name, type, location, etc (*pages 1-2 paragraphs 0011-0012*). Applicant's arguments are therefore unpersuasive and the rejection under the prior art is maintained.

### Claim Rejections - 35 USC § 101

**II.** 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

**III.** **Claim 24** is rejected under 35 U.S.C. 101 because the claim fails to produce a tangible result and only recites the intended use in the claim language. Claim 24, without setting forth any steps involved in the process, results in an improper definition of a process, i.e., results in a claim which is not a proper process claim under 35 U.S.C. 101. See for example *Ex parte Dunki*, 153 USPQ 678 (Bd.App. 1967) and *Clinical Products, Ltd. v. Brenner*, 255 F. Supp. 131, 149 USPQ 475 (D.D.C. 1966).

### Claim Rejections - 35 USC § 112

**IV.** The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

**V.** **Claim 24** is rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential step, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted step is: linking the criteria and/or data collected to the filtering step. As is the two steps of the claim are disjoint and do not relate to one another.

**VI.** **Claim 24** provides for the use of collecting data from a plurality of network nodes to target a subset of the plurality of network nodes for fault monitoring, but, since the claim does not set forth any steps involved in the method/process, it is unclear what method/process

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applicant is intending to encompass. A claim is indefinite where it merely recites a use without any active, positive steps delimiting how this use is actually practiced.

### Claim Rejections - 35 USC § 102

**VII.** The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**VIII.** Claims 1-9 and 20-23 are rejected under 35 U.S.C. 102(e) as being anticipated by *See et al* (US 2004/0008727).

a. **Per claim 20**, *See et al* teach the method for monitoring a network of a plurality of network nodes, comprising:

- means for receiving network topology information (*page 5 paragraph 0053*);
- means for receiving a definition of a subset of network nodes from which to collect data and a definition of the type of data to collect (*pages 2-3 paragraphs 0024-0026*);
- means for generating collection configuration information in response to the network topology information, definition of the subset of network nodes and definition of the type of data (*pages 1-2 paragraphs 0010-0012, page 3 paragraphs 0027-0028—provision for collecting information of network resources/nodes relating different properties of the resources/nodes*); and

- means for polling the subset of network nodes to collect data according to the collection configuration information (*pages 2-3 paragraphs 0025-0027—provision for polling and specifying the type of information collection from the resources/nodes managed by network management system*).
- b. **Claim 1** contains limitations that are substantially similar to claim 20 and are therefore rejected under the same basis.
- c. **Per claim 2**, *See et al* teach the system, as set forth in claim 1, wherein the at least one collection policy defines the subset of network nodes requiring monitoring (*Abstract, pages 1-2 paragraphs 0010-0016, page 3 paragraph 0027*).
- d. **Per claim 3**, *See et al* teach the system, as set forth in claim 1, wherein the at least one collection policy defines the Internet Protocol of the subset of network nodes requiring monitoring (*page 3 paragraphs 0028-0029*).
- e. **Per claim 21**, *See et al* teaches the system, as set forth in claim 20, wherein means for receiving the network topology information comprises receiving identities of the subset of network nodes requiring monitoring (*page 5 paragraph 0053*).
- f. **Per claim 4**, *See et al* teach the system, as set forth in claim 1, wherein the at least one collection policy defines a device type of the subset of network nodes requiring monitoring (*page 1 paragraph 0011, page 3 paragraph 0028*).
- g. **Claim 22** are substantially similar to claim 4 and is therefore rejected under the same basis.
- h. **Per claim 5**, *See et al* teach the system, as set forth in claim 1, wherein the policy server is further operable to generate collection configuration information based on at least one collection instruction, the collection instruction defines what data is to be collected from the subset of network nodes requiring monitoring (*page 3 paragraphs 0031-0034*).

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i. **Claim 23** is substantially similar to claim 5 and is therefore rejected under the same basis.

j. **Per claim 6**, *See et al* teach the system, as set forth in claim 1, wherein the policy server is further operable to generate collection configuration information based on at least one collection instruction, the collection instruction defines how data is to be collected from the subset of network nodes requiring monitoring (*page 2 paragraph 0012, page 3 paragraphs 0026-0027 and 0029-0032*).

k. **Per claim 7**, *See et al* teach the system, as set forth in claim 1, wherein the policy server is further operable to generate collection configuration information based on at least one collection instruction, the collection instruction defines the frequency to collect data from the subset of network nodes requiring monitoring (*page 2 paragraph 0012, page 3 paragraph 0031*).

l. **Per claim 8**, *See et al* teach the system, as set forth in claim 1, wherein the policy server is further operable to generate collection configuration information based on at least one collection instruction, the collection instruction defines when to collect data from the subset of network nodes requiring monitoring (*page 2 paragraph 0012, page 3 paragraph 0031, page 4 paragraph 0040*).

m. **Per claim 9**, *See et al* teach the system, as set forth in claim 1, wherein the policy server is further operable to generate collection configuration information based on at least one collection instruction, the collection instruction defines how to store data collected from the subset of network nodes requiring monitoring (*page 2 paragraph 0014, page 3 paragraph 0030, page 4 paragraph 0044*).

**IX. Claims 10, 11 and 15-19 are rejected under 35 U.S.C. 102(a) as being anticipated by *Conrad* (US 7,302,478).**

a. **Per claim 10, *Conrad* teaches the method for monitoring a network of a plurality of network nodes, comprising:**

- receiving network topology information indicating a list of network nodes to monitor (*col.5 line 55-col.6 line 7—provision for list of remote devices to be polled*);
- receiving a definition of a subset of the list of network nodes from which to collect data and a definition of the type of data to collect (*col.5 line 55-col.6 line 7, col.6 lines 49-59*);
- generating collection configuration information in response to the network topology information, definition of the subset of network nodes and definition of the type of data (*col.6 lines 4-65*); and
- collecting data from the subset of network nodes according to the collection configuration information (*col.6 lines 4-65, col.7 lines 7-43*).

b. **Per claim 11, *Conrad* teaches the method, as set forth in claim 10, wherein receiving the network topology information comprises receiving identities of the subset of network nodes requiring monitoring (*col.7 lines 31-43*).**

c. **Per claim 15, *Conrad* teaches the method, as set forth in claim 10, wherein receiving a definition of a subset of network nodes from which to collect data comprises receiving a predetermined criteria to define the subset of network nodes (*col.7 lines 7-17*).**

d. **Per claim 16, *Conrad* teaches the method, as set forth in claim 10, wherein receiving a definition of the type of data to collect comprises receiving an identification of a data type to collect from the subset of network nodes requiring monitoring (*col.7 lines 7-17*).**

e. **Per claim 17, *Conrad* teaches the method, as set forth in claim 10, wherein receiving a definition of the type of data to collect comprises receiving a definition of a timing**



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related to the collection of the data from the subset of network nodes requiring monitoring (*col.6 line 60-col.7 line 17*).

f. **Per claim 18**, *Conrad* teaches the method, as set forth in claim 10, wherein receiving a definition of the type of data to collect comprises receiving a definition of how to store data collected from the subset of network nodes requiring monitoring (*col.6 lines 4-14, col.7 lines 22-30*).

g. **Per claim 19**, *Conrad* teaches the method, as set forth in claim 10, further comprising providing the generated collection configuration information to at least one collector operable to collect the data from the subset of network nodes requiring monitoring (*col.6 lines 4-19*).

**X. Claims 24 - 30 are rejected under 35 U.S.C. 102(b) as being anticipated by *Fairchild et al* (US 6,343,320).**

a. **Per claim 24**, *Fairchild et al* teach a method for network fault monitoring, comprising:

- accessing criteria for collecting data from a plurality of network nodes (*col.10 lines 3-40*);
- filtering the plurality of network nodes to a target subset of the plurality of network nodes for fault monitoring (*col.7 lines 5-60, col.11 lines 31-38; provision for hardware fault detection*).

b. **Per claim 25**, *Fairchild et al* teach the method of Claim 24, further comprising receiving a collection policy indicating criteria for selecting the subset of network nodes (*col.7 lines 20-40, col.11 lines 31-40*).

c. **Per claim 26**, *Fairchild et al* teach the method of Claim 24, further comprising receiving a collection policy indicating criteria for selecting the subset of network nodes, the

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criteria identifying at least one of internet protocol addresses, device types, database values, and management information database object values of the network nodes (*col.10 lines 3-40*).

d. **Per claim 27**, *Fairchild et al* teach the method of Claim 24, further comprising identifying the subset of network nodes using node status information indicating the operational status of each node in the plurality of network nodes (*col.7 lines 20-40, col.11 lines 31-40*).

e. **Per claim 28**, *Fairchild et al* teach the method of Claim 24, further comprising filtering the plurality of network nodes using data provided by a collection policy and a network topology source (*col.7 lines 20-40, col.11 lines 31-40*).

f. **Per claim 29**, *Fairchild et al* teach the method of Claim 24, further comprising forming the subset of network nodes comprising deficiently operating nodes (*col.7 lines 20-40, col.11 lines 31-40*).

g. **Per claim 30**, *Fairchild et al* teach the method of Claim 24, further comprising providing, to at least one collector, updated criteria for identifying the subset of network nodes to target for fault monitoring (*col.7 lines 5-60, col.11 lines 31-38*).

### **Claim Rejections - 35 USC § 103**

**XI.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**XII. Claims 12 - 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Conrad* (US 7,302,478) in view of *Fairchild et al* (US 6,343,320).**

a. **Per claim 12,** *Conrad* teaches the method as set forth in claim 10, yet fails to explicitly teach wherein receiving the network topology information comprises receiving identities of active network nodes existing in the network. However, *Fairchild et al* teach receiving and monitoring active nodes in the network (*col.1 lines 24-27*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Conrad* with *Fairchild et al* for the purpose of maintaining the status data of the networked nodes to determine which nodes are active/operational or non-operational in the network.

b. **Per claim 13,** *Conrad* teaches the method, as set forth in claim 10, yet fails to further teach wherein receiving a definition of a subset of network nodes from which to collect data comprises receiving a range of Internet Protocol addresses of the subset of network node. However *Fairchild et al* teach defining a monitored and managed subset of network nodes by specifying a range of IP address for the nodes (*col.1 lines 23-27, col.10 lines 3-40, col.11 lines 3-30, col.10 lines 3-13*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Conrad* with *Fairchild et al* for the purpose of monitoring a specific range of networked nodes with particular IP addresses because this allows for a specific section of a network to be monitored for analysis.

c. **Per claim 14,** *Conrad* teaches the method, as set forth in claim 10, yet fails to explicitly teach wherein receiving a definition of a subset of network nodes from which to collect data comprises receiving a device type of the subset of network nodes. However, *Fairchild et al* teaches specifying device type of the subset of network nodes for monitoring (*col.6 lines 12-45,*

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*col.7 lines 64-65, col.10 lines 14-40*). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of *Conrad* with *Fairchild et al* for the purpose of specifying the type of network devices to monitor because this allows only particular types of devices with certain characteristics to be monitored for analysis.

### Conclusion

**XIII.** The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure: Chang et al (7305485).

**XIV.** Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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**XV.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristie D. Shingles whose telephone number is 571-272-3888.

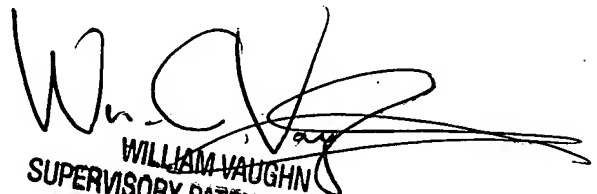
The examiner can normally be reached on Monday 8:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on 571-272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Kristie D. Shingles*  
Examiner  
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